

**Air Pollution Control Advisory Council (APCAC) Meeting**  
**Friday, March 25, 2011 – 1:30 p.m.**  
**Helena – Lee Metcalf Building – Room 35**  
**Montana Department of Environmental Quality (DEQ)**

Members present were: Rich Southwick, Don Potts, Dyrck Van Hying and Michael Barton. Attending by Go-To-Meeting was: John Lei. ARMB staff present were: Eric Merchant, Deb Wolfe, Chuck Homer, and Oline Barta.

Eric Merchant welcomed the group saying that three new members have been added to the APCAC and some of the material would be repetitive for the benefit of the new members. He asked the members to introduce themselves. New member Dyrck Van Hying said he was a food broker from Great Falls who is involved with the Upper Missouri River Breaks National Monument. John Lei, who attended by phone, said he is a representative of the International Brotherhood of Electrical Workers (IBEW). Mr. Merchant said that Mr. Lei represented Labor, Mr. Van Hying is the Conservationist representative while the other new member representing Physicians is Dr. Edward Madler. Dr. Madler was unable to attend this meeting. Mr. Merchant said that APCAC acts as an advisor to the Bureau on rule changes and he wanted to give the members information about the current rulemaking. He added that EPA is changing the National Ambient Air Quality Standards (NAAQS) and he wanted to discuss these changes to the primary health-based standards. Mr. Merchant said the agenda included the election of the APCAC presiding officer but since a quorum was not present today the elections would not occur. He invited the members to ask questions as they viewed the presentations.

Eric Merchant said the APCAC's advisory capacity was statutorily required but Council members were not required or obligated to respond to ARMB's rulemaking notices though ARMB is required to give the text of the rule changes to the APCAC. He asked Oline Barta to explain the process used to obtain members' entitled reimbursements which included per diem, mileage and a \$50 honorarium allowance. Some discussion followed clarifying that members who were employed by some form of government were exempted from the honorarium. Mr. Merchant briefly explained the different sections that constituted the Bureau and then turned the meeting over to Deb Wolfe to explain some of the history of air quality in Montana. She presented an air quality overview and explained about the different sizes of particulate matter (PM) and that the smaller particles are able to penetrate deeper into the lungs. She said Congress passed the Federal Clean Air Act in 1970 and Mike Metcalf supported Clean Air Acts in the 1960s while Senator Baucus cosponsored the 1990 amendments. Deb Wolfe said in the 1970s most industrial pollution was uncontrolled. The Federal Clean Air Act mandated limits on pollution emissions which resulted in a gridlock of court cases in the 1980s. The 1990 amendments to the CAA kept the NAAQS and added permits requirements for large sources. She said Congress also addressed toxic air pollutants, visibility protection, and compliance/enforcement.

Mr. Van Hying asked where mercury fit into this system. Chuck Homer responded that mercury was a toxic air pollutant which EPA regulates. He said EPA just issued a Maximum Achievable Control Technology (MACT) for regulating mercury as an air toxin. Chuck added that the state also has some rules regulating mercury. Mr. Van Hying asked if The APCAC had anything to do with mercury rules. . He mentioned the current legislative attempt to remove state mercury rules. Mr. Homer assured him that notice of any rule adopted by the state concerning air quality issues would be given to APCAC before it goes before the Board of Environmental Review (BER). Asked if the mercury rule was the biggest issue facing APCAC, Ms. Wolfe responded that a number of other issues including the changing

NAAQS standards were equally important and challenging. Mr. Homer offered to visit further about HB570 with Mr. Van Hying after the meeting.

Deb Wolfe continued with her presentation by giving an overview of Montana's Clean Air Act (MCAA) which predates the Federal law. She said the federal law required the states to do much of the air quality regulation. The MCAA created the BER, the DEQ, the Montana Ambient Air Quality Standards (MAAQS), emissions controls, and local air pollution control programs. Ms. Wolfe explained that while the federal rules went through the EPA and were published in the Code of Federal Rules (CFR), Montana rules went through the BER and were published in the Administrative Rules of Montana (ARM). She said the role of APCAC was to advise DEQ regarding the rules. Mr. Van Hying asked about the Montana Code Annotated (MCA). Deb Wolfe explained that the MCA contained the statute which came from the Legislature. Asked where to find the rules, she mentioned the Secretary of State's site: [www.mtrules.org](http://www.mtrules.org).

Deb Wolfe explained that the major permits contained limits required by federal regulations such as Prevention of Significant Deterioration (PSD), New Source Review (NSR) and Title V which applied only to large sources. She said minor sources are issued Montana air quality permits. Oil and gas wells are registered and major open burning is permitted. Ms. Wolfe showed slides of air monitoring stations which the DEQ maintains to establish baseline concentrations and monitor pollutant levels. She explained the State Implementation Plan (SIP) as the collection of federally-enforceable state rules. She also said there were county programs created to deal with local air pollution problems and attain the NAAQS.

Eric Merchant talked about the changes to the NAAQS. He explained that the SIP is in place to protect the NAAQS and that there were primary standards protecting human health and secondary standards to protect other things like visibility and buildings. Mr. Merchant said these are limits to concentrations allowed in ambient (outside) air, not limits to emissions from factories. EPA reviews the NAAQS every five years and some are now being revised. There are six "criteria pollutants," that is, pollutants meeting certain criteria regarding public health and welfare, for which NAAQS are established. The six criteria pollutants are: carbon monoxide, particulate matter, sulfur dioxide, nitrogen dioxide, ozone and lead. Mr. Merchant said that Montana's particulate matter (PM) problems are mostly caused by wintertime mountain inversions trapping wood smoke. When a new standard is adopted, the governor is required to submit lists of areas designating air quality status throughout the state as attainment, nonattainment or unclassified. The unclassified designation is for areas without the sufficient data for one of the first two categories. Mr. Merchant said that within 5 years of a nonattainment designation the state must develop a plan to achieve attainment. He said the NAAQS standard NO<sub>2</sub> was revised in January of 2010. He said that in January 2011 the Governor designated all 56 counties in attainment for NO<sub>2</sub>. Mr. Potts asked how many exceedances were allowed. Mr. Merchant responded that the 98<sup>th</sup> percentile was used which means eight exceedances a year equal a violation. He added that the major problems with NO<sub>2</sub> were occurring in metropolitan areas with multi-lane highways. Mr. Potts asked if there would be a monitoring cost savings if DEQ did not have to monitor for NO<sub>2</sub>. Mr. Merchant responded that Montana did not meet the thresholds for required NO<sub>2</sub> monitoring, but that Montana does conduct some background monitoring.

Eric Merchant went on to discuss the problems the new SO<sub>2</sub> NAAQS standard of 75 ppb/1-hour average presented for the Billings area where the DEQ's Coburn Road monitor showed exceedances of that standard. He said that ARMB was currently evaluating the situation and the Governor's designation of Montana's status for SO<sub>2</sub> compliance was due in June of 2011. Mr. Potts wondered about the

significance of the location of the monitor in determining the extent of a pollution problem and asked about how monitoring locations are selected. Mr. Merchant said that states use CFR Part 58 to guide air monitor placement. He said that unlike NO<sub>2</sub>, sulfur dioxide generally comes from point sources and in the Billings/Laurel area as many as 30 different monitoring sites have been operated over the years. The state site is located on Coburn Road. Mr. Potts also asked whether averages from different locations could be used to establish compliance. Mr. Merchant replied that SO<sub>2</sub> concentration is determined using maximum concentrations of individual sites. As further discussion ensued concerning monitoring placement, Rich Southwick commented that another consideration in pollutant dispersion is determined by the stack heights at the facility. Mr. Southwick also brought up computer modeling as one of the ways monitoring sites are chosen. Eric Merchant said that computer modeling was also a useful tool in providing predictive modeling demonstrations. Responding to Mr. Potts' comments about relocating monitors, Mr. Merchant said the Bureau has years of historical information on the Billings airshed and performs an annual Network Review process that addresses the effectiveness of monitoring locations. He also noted that data used for a designation is based on three years of certified-quality data from the same site.

Mr. Potts asked if the state would incur a penalty for nonattainment. Eric Merchant responded that the state may be required to implement a control plan and new or modified sources of emissions may be required to install more stringent emission controls. Mr. Potts wondered if the costs of improved technology have been brought down to the point where they are reasonable. Rich Southwick agreed that the technology was available, but pointed out that the control costs will be higher for those particular sources making it more difficult for them to compete with similar facilities in less restricted airsheds and some facilities may leave the area if costs are prohibitive. Dyrck Van Hying commented that the new technology may bring new opportunities for profit such as making gas out of crude. Further discussion ensued as to possible placement of refineries.

Eric Merchant said the EPA-proposed revised limit on Ozone has been postponed several times. EPA indicates the NAAQS may be 60-70 ppb. He commented that Montana was the only state in the nation predicted to be in attainment with a 60 ppb NAAQS. Mr. Merchant said that Glacier Park and eastern Montana oilfields were already measuring 57-58 ppb. He noted that that complying with such a strict standard may not be possible if the least-affected state could not comply. Don Potts asked if there was a primary health concern with Ozone. Deb Wolfe responded that respiratory problems were exacerbated upon Ozone inhalation. A discussion followed about the fleeting, unstable nature of ozone which occurs naturally and the difficulty in controlling this air pollutant. Mr. Merchant mentioned a few more standards that may be revised. He thought that carbon monoxide would stay the same, but a stricter PM<sub>2.5</sub> standard would cause problems for several areas in the state.

Deb Wolfe updated the Council about the ARMB rulemaking. She said that the annual Incorporation by Reference (IBR), incorporating changes in federal rules into Montana rules, has gone final and the next step is SIP submission. The IBR process for 2011 will begin soon. She explained EPA disapproved Montana's De minimis rule which allows minor permit changes under 15 tons per year. The Department revised its rule to reflect a 5 ton threshold and submitted the rule to EPA for inclusion in the Montana SIP last June. This submission is awaiting EPA approval. Ms. Wolfe mentioned two more rules BER finalized today. She said a change proposed to the open burning rules would allow wood generated from wind or snowstorm to be moved away from populated areas and burned in a different area. Dyrck Van Hying asked if EPA had a problem with major controlled burns like those done by BLM. Ms. Wolfe said that this rule would not affect burns permitted through the ARMB's major open burn program. Eric Merchant explained a little about the open burning rules that controlled the conditions of those burns.

Ms. Wolfe added that more information about the open burning rules was available on the website. She said the other rule just finalized was permit revocation rule that would allow the Department to publish a newspaper notice to revoke the permit of a facility with no valid mailing address. Deb Wolfe said the new rule ARMB was now working on would update Montana's rules to include new federal PM2.5 requirements in PSD and NSR permitting rules. Rich Southwick asked if information would be forthcoming about this rule. Ms. Wolfe said that an email containing proposed language would go out to the CAAAC. Eric Merchant said that APCAC would also be involved in the rule process. Mr. Southwick commented that the PSD increment limits for PM2.5 would be more stringent than just what would be needed to meet NAAQS. Don Potts brought up the differences in Class I and Class II airsheds, but Mr. Southwick said he was referring to Class II which is most of the state. He was concerned the permit limits effectively become the limits instead of the NAAQS. Eric Merchant said that this rulemaking will make our rules consistent with federal implementation and was not something new.

Ms. Wolfe said that EPA has recently disapproved ARMB's Oil and Gas Registration rule. She said this would cause problems for the Department because it doesn't have enough staff or resources to write permits for oil and gas wells in lieu of the less-complicated registrations. She said EPA had received many comments on their disapproval. Dyrck Van Hying asked for clarification as to whether this involved applications to drill. Chuck Homer responded that the registration program regulated the operation of the wells after they had been drilled.

Eric offered some final comments concerning future meetings. He said that today's meeting included a lot of background information for the benefit of new members, but that future meeting will center more on current rules changes and may be accomplished through Go-To-Meeting or by meeting somewhere other than Helena if it is more convenient for the members. He asked for feedback on what the members wanted. He said he would send out information concerning the selection of a presiding officer. Mr. Merchant thanked the members for participating.

The meeting ended at 3:30 p.m.